

House Bill 1373

By: Representatives Smyre of the 132nd, Hugley of the 133rd, Smith of the 131st, Buckner of the 130th, and Smith of the 129th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 14 of Chapter 1 of Title 10 and Code Section 16-8-12 of the Official Code
2 of Georgia Annotated, relating to secondary metals recyclers and penalties for certain theft
3 crimes, respectively, so as to change provisions relating to transaction records; to provide for
4 transmission of transaction records to the applicable sheriff's department; to regulate
5 payments to persons selling copper items to secondary metals recyclers; to increase penalties,
6 require a surety bond, and provide for damages; to change provisions relating to the
7 superseding nature of the article; to provide for related matters; to repeal conflicting laws;
8 and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
12 secondary metals recyclers, is amended by revising Code Section 10-1-351, relating to record
13 of transactions, as follows:

14 "10-1-351.

15 (a) A secondary metals recycler shall maintain a legible record of all purchase transactions
16 to which such secondary metals recycler is a party. Such record shall include the following
17 information:

18 (1) The name and address of the secondary metals recycler;

19 (2) The date of the transaction;

20 (3) The weight, quantity, or volume and a description of the type of regulated metal
21 property purchased in a purchase transaction. For purposes of this paragraph, the term
22 'type of regulated metal property' shall include a general physical description, such as
23 wire, tubing, extrusions, or castings;

24 (4) The amount of consideration given in a purchase transaction for the regulated metal
25 property;

(5) A signed statement from the person receiving consideration in the purchase transaction stating that he or she is the rightful owner of the regulated metal property or is entitled to sell the regulated metal property being sold;

(6) ~~A photocopy of a valid personal identification card~~ A copy of a valid driver's license or other state or federal government issued identification card containing the name, address, and photograph of the person delivering the regulated metal property to the secondary metals recycler;

(7) The distinctive number from, and type of, the personal identification card of the person delivering the regulated metal property to the secondary metals recycler; ~~and~~

(8) The vehicle identification number, license tag number, state of issue, and the ~~type~~ make and model of the vehicle, ~~if available~~, used to deliver the regulated metal property to the secondary metals recycler. ~~For purposes of this paragraph, the term 'type of vehicle' shall mean an automobile, pickup truck, van, or truck; and~~

(9) A detailed written description from the person receiving consideration in the purchase transaction describing the source from which he or she obtained the regulated metal property.

(b) A secondary metals recycler shall maintain or cause to be maintained the information required by subsection (a) of this Code section for not less than two years from the date of the purchase transaction.

(c) When the metal being purchased is a motor vehicle, the person offering to sell the motor vehicle to a secondary metals recycler shall either provide the title to such motor vehicle or fully execute a cancellation of certificate of title for scrap vehicles form as promulgated by the Department of Revenue, Motor Vehicle Division, designated as MV-1SP, in accordance with Code Section 40-3-36. The secondary metals recycler shall forward the title or MV-1SP form to the Department of Revenue within 72 hours of receipt of the title or form.

(d) On and after July 1, 2010, secondary metals recyclers shall transmit a copy of the information required by subsection (a) of this Code section for each purchase transaction which occurred, within five days of such transaction, to the sheriff's department for the jurisdiction in which the secondary metals recycler is located."

SECTION 2.

Said article is further amended by adding a new Code section to read as follows:

"10-1-352.2.

A secondary metals recycler may pay cash for any ferrous metals or regulated metal property only if the amount of the consideration of such item or items is \$50.00 or less.

Payment for any ferrous metals or regulated metal property exceeding the value of \$50.00

shall be issued by check. Such check shall be payable only to the person named in paragraph (6) of subsection (a) of Code Section 10-1-351 and shall be transmitted to such person providing identification as required in paragraph (6) of subsection (a) of Code Section 10-1-351."

SECTION 3.

Said article is further amended by revising Code Section 10-1-357, relating to penalties for violations, as follows:

"10-1-357.

(a) Any person selling regulated metal property to a secondary metals recycler in violation of any provision of this article shall be guilty of a misdemeanor unless the value of the regulated metals property, in its original and undamaged condition, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft or removal of such regulated metal property, is in an aggregate amount which exceeds \$500.00, in which case such person shall be guilty of a felony and, upon conviction, shall be punished by a fine of not more than ~~\$5,000.00~~ \$25,000.00 or by imprisonment for not less than one nor more than ~~five~~ ten years, or both.

(b) Any secondary metals recycler knowingly and intentionally engaging in any practice which constitutes a violation of this article shall be guilty of a misdemeanor unless the value of the regulated metals property, in its original and undamaged condition, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft or removal of such regulated metal property, is in an aggregate amount which exceeds ~~\$500.00~~ \$50.00, such secondary metals recycler shall be guilty of a felony and, upon conviction, shall be punished by a fine of not more than ~~\$5,000.00~~ \$50,000.00 or by imprisonment for not less than ~~one~~ five nor more than ~~five~~ 15 years, or both.

(c) Each secondary metals recycler shall obtain a surety bond issued by a surety company authorized to do business in this state in an amount not less than \$500,000.00. The bond or trust account shall be in favor of the state for the benefit of any person who is damaged by any violation of this article or by the misfeasance or malfeasance of a secondary metals recycler. Any person harmed by the misfeasance or malfeasance of a secondary metals recycler may bring an action against the bond or trust account to recover damages suffered, which shall include, without limitation, reasonable attorney's fees."

SECTION 4.

Said article is further amended by revising Code Section 10-1-358, relating to the superseding nature of the article, to read as follows:

"10-1-358.

~~The General Assembly finds that this article is a matter of state-wide concern. This article supersedes and preempts all rules, regulations, codes, ordinances, and other laws adopted by any county, municipality, consolidated government, or other local governmental agency regarding the sale or purchase of regulated metal property. Any county, municipality, consolidated government, or other local governing authority may adopt ordinances or resolutions not in conflict with this article regarding the sale or purchase of regulated metal property and such ordinances or resolutions shall be cumulative to this article.~~"

SECTION 5.

Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to penalties for violation of Code Sections 16-8-2 through 16-8-9, is amended by revising paragraph (9) of subsection (a) as follows:

"(9) Notwithstanding the provisions of paragraph (1) of this subsection, if the property of the theft was ferrous metals or regulated metal property, as such terms are defined in Code Section 10-1-350, and the sum of the aggregate amount of such property, in its original and undamaged condition, plus any reasonable costs which are or would be incurred in the repair or the attempt to recover any property damaged in the theft or removal of such regulated metal property, exceeds \$500.00, by imprisonment for not less than ~~one~~ five nor more than ~~five~~ ten years, a fine of not more than ~~\$5,000.00~~ \$25,000.00, or both."

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.